

§ 245a.5

8 CFR Ch. I (1–1–01 Edition)

such alien to the status held prior to the adjustment, and render him or her amenable to exclusion or deportation proceedings under sections 236 or 242 of the Act, as appropriate.

(21) *Ineligibility for immigration benefits.* An alien whose status is adjusted to that of a lawful temporary resident under § 245a.4 of this part is not entitled to submit a petition pursuant to section 203(a)(2), nor is such alien entitled to any other benefit or consideration accorded under the Act to aliens lawfully admitted for permanent residence.

(22) *Declaration of intending citizen.* An alien who has been granted the status of temporary resident under § 245a.4 of this part may assert a claim of discrimination on the basis of citizenship status under section 274B of the Act only if he or she has previously filed Form I-772 (Declaration of Intending Citizen) after being granted such status. The Declaration of Intending Citizen is not required as a basis for filing a petition for naturalization; nor shall it be regarded as a right to United States citizenship; nor shall it be regarded as evidence of a person's status as a resident.

(23) *Limitation on access to information and confidentiality.* (i) No person other than a sworn officer or employee of the Department of Justice or bureau or agency thereof, will be permitted to examine individual applications. For purposes of this part, any individual employed under contract by the Service to work in connection with the Legalization Program shall be considered an employee of the Department of Justice or bureau or agency thereof.

(ii) No information furnished pursuant to an application for temporary or permanent resident status under this section shall be used for any purpose except:

(A) To make a determination on the application; or,

(B) for the enforcement of the provisions encompassed in section 245A(c)(6) of the Act, except as provided in paragraph (b)(23)(iii) of this section.

(iii) If a determination is made by the Service that the alien has, in connection with his or her application, engaged in fraud or willful misrepresentation or concealment of a material

fact, knowingly provided a false writing or document in making his or her application, knowingly made a false statement or representation, or engaged in any other activity prohibited by section 245A(c)(6) of the Act, the Service shall refer the matter to the United States Attorney for prosecution of the alien or of any person who created or supplied a false writing or document for use in an application for adjustment of status under this part.

(iv) Information contained in granted legalization files may be used by the Service at a later date to make a decision on an immigrant visa petition (or other status petition) filed by the applicant under section 204(a), or for naturalization applications submitted by the applicant.

(c) *Adjustment from temporary to permanent resident status.* The provisions of § 245a.3 of this part shall be applied to aliens adjusting to permanent residence under this part.

[54 FR 6505, Feb. 13, 1989, as amended at 54 FR 29455, July 12, 1989; 54 FR 47676, Nov. 16, 1989; 60 FR 21976, May 4, 1995]

EFFECTIVE DATE NOTE: At 65 FR 82256, Dec. 28, 2000, § 245a.4 was amended by revising the reference to “212.5(e)” to read “212.5(f)” in paragraph (b)(13)(i), and in the last sentence of paragraph (b)(14)(ii)(A), effective Jan. 29, 2001.

§ 245a.5 Temporary disqualification of certain newly legalized aliens from receiving benefits from programs of financial assistance furnished under federal law.

(a) Except as provided in § 245a.5(b), any alien who has obtained the status of an alien lawfully admitted for temporary residence pursuant to section 245A of the Act (Adjustment of Status of Certain Entrants Before January 1, 1982, to that of Person Admitted for Lawful Residence) or 210A of the Act (Determinations of Agricultural Labor Shortages and Admission of Additional Special Agricultural Workers) is ineligible, for a period of five years from the date such status was obtained, for benefits financed directly or indirectly, in whole or in part, through the programs identified in § 245a.5(c) of this chapter.

Immigration and Naturalization Service, Justice

§ 245a.5

(b)(1) Section 245a.5(a) shall not apply to a Cuban or Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96-422, as in effect on April 1, 1983), or in the case of assistance (other than aid to families with dependent children) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

(2) With respect to any alien who has obtained the status of an alien lawfully admitted for temporary residence pursuant to section 210A of the Act only, assistance furnished under the Legal Services Corporation Act (42 U.S.C. 2996, *et seq.*) or title V of the Housing Act of 1949 (42 U.S.C. 1471 *et seq.*) shall not be construed to be financial assistance referred to in § 245a.5(a).

(3) Section 245a.5(a) shall not apply to benefits financed through the programs identified in § 245a.5(c), which are marked with an asterisk (*), except to the extent that such benefits:

(i) Consist of, or are financed by, financial assistance in the form of grants, wages, loan, loan guarantees, or otherwise, which is furnished by the Federal Government directly, or indirectly through a State or local government or a private entity, to eligible individuals or to private suppliers of goods or services to such individuals, or is furnished to a State or local government that provides to such individuals goods or services of a kind that is offered by private suppliers, and

(ii) Are targeted to individuals in financial need; either (A) in order to be eligible, individuals must establish that their income or wealth is below some maximum level, or, with respect to certain loan or loan guarantee programs, that they are unable to obtain financing from alternative sources, or at prevailing interest rates, or at rates that would permit the achievement of program goals, or (B) distribution of assistance is directed, geographically or otherwise, in a way that is intended to primarily benefit persons in financial need, as evidenced by references to such intent in the authorizing legislation.

(c) The programs of Federal financial assistance referred to in § 245a.5(a) are those identified in the list set forth

below. The General Services Administration (GSA) Program Numbers set forth in the right column of the program list refer to the program identification numbers used in the Catalog of Federal Domestic Assistance, published by the United States General Services Administration, as updated through December, 1986.

	GSA Program Num- bers
Department of Agriculture:	
Farm Operating Loans	10.406
Farm Ownership Loans	10.407
Department of Health and Human Services:	
Assistance Payments—Maintenance Assist-	
ance (Maintenance Assistance; Emergency	
Assistance; State Aid; Aid to Families with	
Dependent Children)	13.780
Low-Income Home Energy Assistance	13.789
*Community Services Block Grant	13.792
*Community Services Block Grant—Discre-	
tionary Awards	13.793
Department of Housing and Urban Development:	
Mortgage Insurance—Housing in Older, De-	
clining Areas (223(e))	14.123
Mortgage Insurance—Special Credit Risks	
(237)	14.140
*Community Development Block Grants/Enti-	
tlement Grants	14.218
*Community Development Block Grants/Small	
Cities Program (Small Cities)	14.219
Section 312 Rehabilitation Loans (312)	14.220
*Urban development action grants	14.221
*Community Development Block Grants/	
State's Program	14.228
Section 221(d)(3) Mortgage Insurance for Mul-	
tifamily Rental Housing for Low and Mod-	
erate Income Families (Below Market Inter-	
est Rate)	14.136
Department of Labor:	
Senior Community Service Employment Pro-	
gram (SCSEP)	17.235
Office of Personnel Management:	
Federal Employment for Disadvantaged	
Youth—Part-Time (Stay-in-School Program)	
Federal Employment for Disadvantaged	
Youth—Summer (Summer Aides)	27.004
Small Business Administration:	
Small Business Loans (7(a) Loans)	59.012
Department of Energy:	
Weatherization Assistance for Low-Income	
Persons	81.042
Department of Education:	
Patricia Roberts Harris Fellowships (Graduate	
and Professional Study; Graduate and Pro-	
fessional Study Opportunity Fellowships;	
Public Service Education Fellowships)	84.094
Legal Training for the Disadvantaged (The	
American Bar Association Fund for Public	
Education)	84.136
Allen J. Ellender Fellowship Program (Ellender	
Fellowship)	84.148
Legal Services Corporation:	
Payments to Legal Services Corporation	

[54 FR 29437, July 12, 1989, as amended at 54 FR 49964, Dec. 4, 1989]